

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

PETER JASON HELFRICH,

Plaintiff,

v.

RICHARD MARSHALL et al.,

Defendants.

2:15-cv-00393-KJD-GWF

ORDER

I. DISCUSSION

On January 19, 2016, this Court entered an order directing Plaintiff to file a second amended complaint within 30 days from the date of that order. (ECF No. 30 at 4). The Court stated that, if Plaintiff failed to file a second amended complaint, the action would be dismissed without prejudice. (*Id.*). On February 10, 2016, Plaintiff filed an emergency motion for appointment of counsel (ECF No. 31) and an amended emergency motion to enlarge time to perfect amended complaint (ECF No. 33).

A. Appointment of Counsel

Plaintiff has filed a motion for appointment of counsel because prison officials are retaliating against him. (ECF No. 31 at 1). A litigant does not have a constitutional right to appointed counsel in 42 U.S.C. § 1983 civil rights claims. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). Pursuant to 28 U.S.C. § 1915(e)(1), “[t]he court may request an attorney to represent any person unable to afford counsel.” However, the court will appoint counsel for indigent civil litigants only in “exceptional circumstances.” *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (§ 1983 action). “When determining whether ‘exceptional circumstances’ exist, a court must consider ‘the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal

1 issues involved.” *Id.* “Neither of these considerations is dispositive and instead must be
2 viewed together.” *Id.* In the instant case, the Court does not find exceptional circumstances
3 that warrant the appointment of counsel. The Court denies the motion for appointment of
4 counsel.

5 **B. Extension of Time**

6 Plaintiff has filed a motion for an extension of time to file his amended complaint. (ECF
7 No. 33). Plaintiff requests an extension of 90 days. (*Id.* at 1). The Court grants Plaintiff’s
8 motion for an extension of time in part. The Court grants Plaintiff until Thursday, March 31,
9 2016 to file his second amended complaint.

10 **II. CONCLUSION**

11 For the foregoing reasons, IT IS ORDERED that the emergency motion for appointment
12 of counsel (ECF No. 31) is denied.

13 IT IS FURTHER ORDERED that the amended emergency motion for an extension of
14 time (ECF No. 33) is granted in part. Plaintiff shall file his second amended complaint on or
15 before Thursday, March 31, 2016.

16 IT IS FURTHER ORDERED that, if Plaintiff fails to timely comply with this order, the
17 Court shall dismiss his case without prejudice.

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19 DATED: This 17th day of February 2016.

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21 
22 United States Magistrate Judge